

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
BRIAN A. BJORK;	§	
ESTATE OF JOEL DAVID SALINAS;	§	
J. DAVID GROUP OF COMPANIES, INC.	§	
J. DAVID FINANCIAL GROUP, L.P.;	§	
SELECT ASSET MANAGEMENT, LLC;	§	§ Civil Action No.: 11-cv-2830
SELECT CAPITAL MANAGEMENT, LLC	§	
SELECT ASSET FUND I, LLC; and	§	
SELECT ASSET PRIME INDEX FUND, LLC,	§	
	§	
Defendants.	§	
	§	

NOTICE OF FIRST AMENDED COMPLAINT BY CONSENT

I. Introduction

To correct a drafting error in its Complaint, Plaintiff Securities and Exchange Commission (“SEC”) files its First Amended Complaint, attached hereto as **Exhibit A**. The error surfaced recently while the SEC was undertaking its internal review of a settlement proposal between the SEC and Defendant entities in receivership. The SEC discovered that, on pp. 18-19 in the “Relief Requested” Section, Paragraph III of the Complaint, the SEC inadvertently failed to exclude Defendant Select Asset Fund I, LLC (“Fund I”) and Defendant Select Asset Prime Index Fund, LLC (“Fund II”) from the SEC’s request for civil money penalties.

The SEC is not seeking civil money penalties against Fund I and Fund II. It was therefore an error to include them among those against whom penalties are being sought.

Correcting the error will benefit Fund I and Fund II by clarifying that the SEC is not seeking penalties against them.

The SEC has conferred about the error with Steven A. Harr, Court-Appointed Receiver for Fund I and Fund II, the only Defendants affected by the error. As reflected in **Exhibit B**, attached, Mr. Harr has consented in writing to the filing of the SEC's First Amended Complaint. Rule 15(a)(2) of the Federal Rules of Civil Procedure provides that "a party may amend its pleading only with *the opposing party's written consent* or the court's leave." Fed. R. Civ. P. 15(a)(2) (emphasis added).

Compared to the Complaint, the First Amended Complaint reflects the following revisions to Paragraph III of the Relief Requested Section, underlines showing additions and strikethroughs showing deletions:

Order the Defendants, except Fund I and Fund II, to pay civil monetary penalties in an amount determined as appropriate by the Court pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)] for ~~the~~ their violations alleged herein.

II. Status Report

During the status conference held before the Court on November 1, 2017, SEC counsel reported that settlement proposals were under review as to all Defendants and estimated that the SEC's Commissioners would take up the settlement proposals for a vote within approximately 30 to 45 days. If approved, all of the SEC's remaining claims would be resolved. Although the need to correct the foregoing error has created some delay, it estimated that the proposals will be taken up by the Commissioners within approximately 30 days.

Dated: November 16, 2017

Respectfully submitted,

s/Timothy S. McCole

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